

Message Text

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ACTION IO-13

INFO OCT-01 ISO-00 IOE-00 SSO-00 NSCE-00 USIE-00
INRE-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10 ACDA-07
CIAE-00 DODE-00 PM-04 INR-07 L-03 NSAE-00 NASA-01
NSC-05 ERDA-05 OES-06 H-01 PA-01 PRS-01 SP-02
SS-15 OIC-02 /117 W

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TO SECSTATE WASHDC IMMEDIATE 2973

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E.O. 11652: N/A

TAGS: TSPA, UN, AORG

SUBJECT: OUTER SPACE LEGAL SUBCOMMITTEE: DBS - MARCH 28, 1977

1. SUMMARY: LEGAL SUBCOMMITTEE (LSC) BEGAN CONSIDERATION OF DIRECT BROADCASTING SATELITES (DBS) IN MARCH 28 A.M. SESSION, WITH PLENARY STATEMENTS BY UK, ITALY AND USSR. WYZNER (POLAND) WAS ELECTED CHAIRMAN WORKING GROUP II (DBS) AND PROMPTLY CALLED FOR SUBMISSION OF ALL NEW DBS PROPOSALS. TOMORROW. UK, MEXICO, ARGENTINA AND BELGIUM ASKED FOR CONSIDERATION OF THEIR RESPECTIVE DBS PAPERS AND PROPOSALS. IN BOTH PLENARY AND WG-II, USSR EMPHASIZED POLITICAL ASPECTS OF THE PRIOR CONSENT QUESTION, PROCLAIMING THE NEED FOR A PROTECTIVE LEGAL PRINCIPLE DESPITE THE TECHNICAL REGULATIONS ADOPTED BY ITU WARC. END SUMMARY.

2. LSC BEGAN THIRD WEEK OF ITS 16TH SESSION BY TURNING TO AGENDA ITEM II, THE ELABORATION OF PRINCIPLES GOVERNING THE USE BY STATES OF ARTIFICIAL EARTH SATELLITES FOR DIRECT TELEVISION BROADCASTING. CHAIRMAN WYZNER REVIEWED LAST YEAR'S EFFORTS ON DBS AND SAID MEMBERS SHOULD TAKE INTO ACCOUNT THE RESULTS OF THE 1977 ITU WARC. IN THE ABSENCE

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OF AMB. MISHRA, INDIA NOMINATED AND LSC SUPPORTED WYZNER AS CHAIRMAN WG-II.

3. UK (GREENWOOD) MADE STATEMENT (POUCHED IO/UNP - OPPEL) BASED ON ITS WORKING PAPER OF MARCH 18 (DOC. A/AC.105/C.2/L.110) (PREVIOUSLY POUCHED) ELABORATING THE TECHNICAL AND LEGAL IMPLICATIONS OF 1977 WARC. ESSENTIAL

THRUST OF UK STATEMENT WAS THAT (A) AS A RESULT OF WARC, DIRECT STATE-TO-STATE DBS WITHOUT AGREEMENT OF RECEIVING COUNTRY WILL NOT BE PERMISSIBLE OR POSSIBLE AS PRACTICAL MATTER EXCEPT IN CERTAIN SPECIFIED INSTANCES, SO THAT (B) IT IS "MOST QUESTIONABLE" WHETHER A GENERAL UN PRINCIPLE ON CONSENT AND PARTICIPATION IS NECESSARY.

4. ITALY (MAGNO) SUPPORTED UK ARGUMENT, NOTING THAT WARC RESULTS SHOULD ALLEVIATE ANY FEARS ABOUT UNAUTHORIZED DBS AND EMPHASIZING THAT ITALY FULLY SUPPORTS PRINCIPLE OF FREEDOM OF INFORMATION, INCLUDING RECEPTION AND DISSEMINATION OF NEWS AND IDEAS.

5. USSR (KOLOSSOV) ARGUED THAT UK STATEMENT DID NOT CATEGORICALLY REJECT NEED FOR DBS PRINCIPLE ON PRIOR CONSENT, AND QUESTIONED HOW ITALY'S INSISTENCE ON FREE FLOW OF INFORMATION COULD BE RECONCILED WITH WARC RESULTS. HE NOTED THAT AS A TECHNICAL BODY, WARC PROPERLY DID NOT CONSIDER PRIOR CONSENT ISSUE, AND HE ASSERTED THAT THE MARGINAL PROTECTION AFFORDED BY ITU TECHNICAL RULES IS INSUFFICIENT TO PROTECT SOVEREIGN INTERESTS OF STATES. ASSERTING THAT STATES MUST HAVE THE RIGHT TO USE "THE ENTIRE MACHINERY OF INTERNATIONAL LAW" IN THIS RESPECT, HE EMPHASIZED THE NEED FOR A GENERAL PRINCIPLE OF INTERNATIONAL LAW TO PRESERVE CULTURAL HERITAGE, PROTECT AGAINST HARMFUL PROPAGANDA, AND PREVENT INTERFERENCE IN INTERNAL AFFAIRS. HE SAID CONCERNS APPLY TO COMMUNITY AS WELL AS INDIVIDUAL RECEPTION. EMPHASIZING THAT THE ISSUE IS BASICALLY POLITICAL, HE ASKED WHETHER STATES ARE WILL-LIMITED OFFICIAL USE

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ING TO HAVE OTHER STATES MAKE THE DETERMINATION TO UNDERTAKE DBS ACTIVITIES SPECIFICALLY INTENDED FOR THEIR OWN NATIONAL POPULATIONS. THIS ISSUE IS DIRECTLY RELATED TO BROADER QUESTIONS CONCERNING MASS MEDIA IN GENERAL AND SHOULD BE RESOLVED IN THE POLITICAL CONTEXT OF THE UN, RATHER THAN THE ITU. KOLOSSOV CONCLUDED BY SAYING THAT UNAUTHORIZED DBS WOULD BE DETRIMENTAL TO THE "SPIRIT OF DETENTE" AND ASSERTING THAT UNGA HAD GIVEN LSC INSTRUCTIONS TO ADOPT A PRIOR CONSENT PRINCIPLE.

6. UK RESPONDED BY NOTING (A) THERE WERE NO SUCH INSTRUCTIONS FROM UNGA TO ADOPT A PRINCIPLE, ONLY TO CONTINUE AS A MATTER OF HIGH PRIORITY TO CONSIDER COMPLETING ELABORATION OF DRAFT PRINCIPLES, (B) THE ITU TECHNICAL REGULATIONS WILL HAVE TREATY STATUS, AND (C) THE PRACTICAL ASPECTS OF THE DBS PROBLEM HAVE BEEN SOLVED TECHNICALLY SO THAT NO PRIOR CONSENT PRINCIPLE IS NECESSARY. HE ALSO SAID THAT ITU REGULATIONS APPLY EQUALLY TO COMMUNITY RECEPTION, AND LOCAL AUTHORITIES COULD EXERCISE CONTROL

OVER COMMUNITY FACILITIES TO PREVENT UNWANTED BROADCASTS.

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7. FOLLOWING THIS EXCHANGE, LSC ADJOURNED AND RECONVENED AS WG-II. REGARDING ORGANIZATION OF WORK, WYZNER CALLED FOR ALL NEW DBS PROPOSALS TO BE SUBMITTED BY TUESDAY, MARCH 29, TO FACILITATE WORK ON A COMPROMISE SOLUTION. THE UK ASKED OTHER DELS PROMPTLY TO MAKE COMMENTS ON ITS WORKING PAPER AND STATEMENT; MEXICO URGED CONSIDERATION OF ITS WORKING PAPER ON PROGRAM CONTENT AND PRIOR CONSENT DATED 26 MAY 1976, WHICH WAS ATTACHED AS ANNEX VI TO 1976 LSC REPORT; AND ARGENTINA SAID ITS DRAFT INTERNATIONAL AGREEMENT OF 5 JULY 1974 (A/AC.105/134) REMAINED FULLY VALID IN THIS CONTEXT. IN VIEW OF THESE COMMENTS, AUSTRIA (TUERK) PROPOSED ADJOURNING UNTIL TOMORROW TO PERMIT CONSULTATIONS ON COMPROMISE PROPOSALS WHICH HE SAID LSC WAS "ANXIOUSLY AWAITING."

8. A RATHER SPIRITED AND LENGTHY DEBATE ENSURED WHEN UK STATED IT WAS NOT ANXIOUSLY AWAITING A COMPROMISE SOLUTION BUT RATHER WANTED FULL DISCUSSION OF ITS STATEMENT ON THE TECHNICAL IMPLICATIONS OF THE WARC. USSR STENUOUSLY OPPOSED USE OF UK PAPER AS BASIS FOR DISCUSSION, ARGUING LSC WORK CANNOT BE SEPARATED FROM POLITICAL QUESTIONS. USSR ALSO ASSERTED EXISTENCE OF PAST LSC CONSENSUS ON
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NEED FOR APPROPRIATE PRIOR CONSENT PRINCIPLE; EVEN IF LAST YEAR'S ALTERNATIVE FORMULATIONS WERE BOTH DISCARDED, SUCH A PRINCIPLE IS STILL REQUIRED. FRG (KRAUSE) SUPPORTED UK PAPER AS EXCELLENT BASIS FOR FURTHER DISCUSSION, UNDERLINED DIFFERENCE BETWEEN THE TECHNICAL AND POLITICAL ASPECTS OF THE ISSUE, AND ADDED THAT FRG SUPPORT FOR FREE FLOW IS WELL KNOWN. UK REBUTTED USSR BY DENYING EXISTENCE OF ANY PREVIOUS CONSENSUS ON NEED FOR PRIOR CONSENT PRINCIPLE AND REITERATING THAT ANY COMPROMISE ON THE "POLITICAL" ISSUE MUST TAKE INTO ACCOUNT THE UK COMMITMENT TO FREEDOM TO DISSEMINATE INFORMATION AND IDEAS REGARDLESS OF NATIONAL FRONTIERS.

9. WHEN CHAIRMAN STRONGLY URGED COMPROMISE SOLUTION, US (HOSENBALL) INTERVENED TO SAY THAT UK PAPER DESERVED CLOSE ANALYSIS IN LIGHT OF EXISTING DBS PRINCIPLE ON APPLICABILITY OF INTERNATIONAL LAW, WHICH INCORPORATED BY REFERENCE THE ITU CONVENTION AND RADIO REGULATIONS. SAID WG SHOULD STUDY CAREFULLY WHETHER WARC HAS IN FACT FACILITATED ITS WORK, RATHER THAN CONCENTRATING ON PAST PAPERS ANTEDATING THE WARC RESULTS.

10. BELGIUM (DELROT) AGAIN RAISED ITS "POSITIVE" FORMULATION PUT FORWARD IN GENERAL DEBATE (REF. USUN 790 AND 810), ALONG FOLLOWING LINES: QUOTE: IN ORDER TO ACHIEVE FREEDOM OF INFORMATION AND THE EXCHANGE OF IDEAS, STATES SHALL MAXIMIZE DBS TO THE EXTENT COMPATIBLE WITH THEIR OWN NATIONAL SECURITY AND PUBLIC ORDER. END QUOTE.

11. FOLLOWING BRIEF STATEMENT BY ITU OBSERVER (BUTLER) DRAWING ATTENTION TO HIS PREVIOUS STATEMENT ON WARC RESULTS, WG-II ADJOURNED, TO RECONVENE A.M. TUESDAY MARCH 29.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
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Handling Restrictions: n/a
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Legacy Key: link1977/newtext/t1977039/aaaaahrs.tel
Line Count: 205
Litigation Code IDs:
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Office: ACTION IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
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Page Count: 4
Previous Channel Indicators: n/a
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Review Content Flags:
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Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3198536
Secure: OPEN
Status: NATIVE
Subject: OUTER SPACE LEGAL SUBCOMMITTEE: DBS - MARCH 28, 1977
TAGS: TSPA, AORG, UN
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/0cc512bd-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009